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Federal Communications Commission

DA 97-2407

DISPATCHED

Before the  
Federal Communications Commission  
Washington, D.C. 20554

In the Matter of

Amendment of Section 73.202(b),  
Table of Allotments,  
FM Broadcast Stations.  
(Geneseo, Illinois and DeWitt, Iowa)

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MM Docket No. 96-195  
RM-8867

REPORT AND ORDER  
(Proceeding Terminated)

Adopted: November 12, 1997;

Released: November 21, 1997

By the Chief, Allocations Branch:

1. At the request of Connoisseur Communications of Quad Cities, L.P. ("petitioner"), licensee of Station WGEN-FM, Channel 285A, Geneseo, Illinois, the Commission has before it the Notice of Proposed Rule Making, 11 FCC Rcd 11575 (1996), proposing the substitution of Channel 285C3 for Channel 285A at Geneseo, the reallocation of Channel 285C3 from Geneseo to DeWitt, Iowa, and the modification of Station WGEN-FM's license accordingly.<sup>1</sup> Petitioner filed comments in support of the proposal reaffirming its intention to apply for the channel, if reallocated to DeWitt. No other comments were received.

2. The proposed reallocation of Channel 285C3 from Geneseo, Illinois, to DeWitt, Iowa, was filed pursuant to the provisions of Section 1.420(i) of the Commission's Rules, which permit the modification of a station's license to specify a new community of license without affording other interested parties an opportunity to file competing expressions of interest. See Modification of FM and TV Authorizations to Specify a New Community of License, 4 FCC Rcd 4870 (1989), recon. granted in part, 5 FCC Rcd 7094 (1990) ("Change of Community"). In support of its proposal, petitioner states that DeWitt is an incorporated community with a population of 4,514,<sup>2</sup> and is located in Clinton County (population 51,040). Petitioner also states that DeWitt has an elected mayor and city council. It has its own community hospital, fire department, police department, water plant, trash disposal plant, library, and community center. DeWitt has a variety of retail stores, restaurants, service stations, banks, schools, churches, and community organizations, and is also served by a bi-weekly newspaper.

<sup>1</sup>An application (BTCH-970306HI) to transfer control of Station WGEN-FM from Connoisseur Communications of Quad Cities, L.P. to Abry/Continuity, Inc. was granted on March 20, 1997, and consummated on March 26, 1997.

<sup>2</sup>All population figures are taken from the 1990 U.S. Census.

3. We believe that reallocating Channel 285C3 to DeWitt, Iowa, and modifying Station WGEN-FM's license to specify DeWitt as its new community of license represents a preferential arrangement of allotments as required by Change of Community, *supra*, because it constitutes a first local transmission service under priority three of the FM allotment priorities.<sup>3</sup> Since an engineering analysis has determined that the reallocation of Channel 285C3 at DeWitt would place a 70 dBu signal over approximately 45% of the Davenport-Rock Island-Moline, Iowa-Illinois Urbanized Area, this proposal does not present the policy concerns expressed in Headland, Alabama and Chattahoochee, Florida, 10 FCC Rcd 10352 (1995).<sup>4</sup> Thus, a Tuck analysis is not necessary.

4. By way of contrast, retaining the allotment at Geneseo triggers priority four--other public interest matters. While under priority four retention of the station at Geneseo would be a first local night-time transmission service, this does not outweigh the fact that the proposed arrangement of allotments triggers a more important allotment priority--a first local aural transmission service. See Ravenswood and Elizabeth, West Virginia, 10 FCC Rcd 181 (1995). Our view is further buttressed by the fact that both communities receive five or more reception services and are considered to be well-served, and the reallocation of Channel 285C3 to DeWitt (population 4,514)<sup>5</sup> would not deprive Geneseo (population 5,990) of its sole local service since Station WGEN(AM), a daytime-only service, would remain licensed to the community. Finally, we recognize that the reallocation would result in a loss of service to an area of 859 square kilometers (331.8 square miles) containing 13,778 persons. However, the loss area is well-served with five or more reception services. Furthermore, the loss area is offset by a gain of service to an area of 3,970 square kilometers (1533.5 square miles) containing 202,552 persons, a net service gain area of 3111 square kilometers (1207.7 square miles) containing 188,774 persons.

#### Technical Summary

5. An engineering analysis has determined that Channel 285C3 can be allotted to DeWitt, Iowa, in compliance with the Commission's minimum distance separation requirements with a site restriction of 14.0 kilometers (8.7 miles) southeast to avoid short-spacings to the licensed sites of Station WXRX(FM), Channel 285A, Belvidere, Illinois, and Station WXCL(FM),

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<sup>3</sup>The FM allotment priorities are: (1) first full-time aural service; (2) second full-time aural service; (3) first local service; and (4) other public interest matters. [Co-equal weight given to priorities (2) and (3).] See Revision of FM Assignment Policies and Procedures, 90 FCC 2d 88, 92 (1982).

<sup>4</sup>See also Huntington Broadcasting Co. v. FCC, 192 F.2d 33 (D.C. Cir. 1951); RKO General, Inc., 5 FCC Rcd 3222 (1990), and Faye and Richard Tuck, 3 FCC Rcd 5374 (1988).

<sup>5</sup>All population figures are taken from the 1990 U.S. Census.

Channel 285A, Pekin, Illinois, at petitioner's requested site.<sup>6</sup> In accordance with the provisions of Section 1.420(i) of the Commission's Rules, we will modify Station WGEN-FM's license to specify operation on Channel 285C3 at DeWitt, Iowa, as its new community of license.

6. Accordingly, pursuant to the authority found in Sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS ORDERED, That effective January 5, 1998, the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, IS AMENDED, with respect to the communities listed below, to read as follows:

<u>City</u>	<u>Channel No.</u>
Geneseo, Illinois	----
DeWitt, Iowa	285C3

7. IT IS FURTHER ORDERED, pursuant to Section 316(a) of the Communications Act of 1934, as amended, that the license of Connoisseur Communications of Quad Cities, L.P., for Station WGEN-FM, Geneseo, Illinois, IS MODIFIED to specify operation on Channel 285C3 in lieu of Channel 285A at DeWitt, Iowa, subject to the following conditions:

- (a) Within 90 days of the effective date of this Order, the licensee shall submit to the Commission a minor change application for a construction permit (Form 301), specifying the new facility.
- (b) Upon grant of the construction permit, program tests may be conducted in accordance with Section 73.1620.
- (c) Nothing contained herein shall be construed to authorize a change in transmitter location or to avoid the necessity of filing an environmental assessment pursuant to Section 1.1307 of the Commission's Rules.

8. Pursuant to Commission Rule Section 1.1104(1)(k) and (2)(k), any party seeking a change of community of license of an FM or television allotment or an upgrade of an existing FM allotment, **if the request is granted**, must submit a rule making fee when filing its application to implement the change in community of license and/or upgrade. As a result of this proceeding, Connoisseur Communications of Quad Cities, L.P. licensee of Station WGEN-FM, is required to submit a rule making fee in addition to the fee required for the application to effect the upgrade and change in community of license.

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<sup>6</sup>The coordinates for Channel 285C3 at DeWitt are North Latitude 41-42-50 and West Longitude 90-27-20.

9. IT IS FURTHER ORDERED, That the Secretary shall send a copy of this Report and Order by Certified Mail, Return Receipt Requested, to the following:

Connoisseur Communications of Quad Cities, L.P.  
136 Main Street  
Westport, Connecticut 06880  
(Licensee of Station WGEN-FM)

10. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.

11. For further information concerning this proceeding, contact Sharon P. McDonald, Mass Media Bureau, (202) 418-2180.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos  
Chief, Allocations Branch  
Policy and Rules Division  
Mass Media Bureau